

REMARKS/ARGUMENTS

I. Disposition of Claims

Claims 1-263, 265-273, and 291-295 are pending in the application and are subject to an election requirement. Claims 9, 11-129, 131-167, 170-181, 186, 188-245, 247-263, 265-273, and 291-293 are withdrawn from consideration. Applicants reserve their rights to subsequently take up prosecution on the claims as originally filed in this or an appropriate continuing application.

II. Remarks Regarding Election/Restriction Requirement

The Office Action states that:

1. This application contains claims directed to the following patentably distinct species:

Species A: Represented by paragraph 12, line 4 (i.e. rapid development of tier components and their business processes);

Species B: Represented by paragraph 12, line 5 (i.e. rapid development of framework components within a tier)

Species C: Represented by paragraph 14 (i.e. enterprise system framework includes rapid development services);

Species D: Represented by paragraph 15 (i.e. business framework develops enterprise applications);

Species E: Represented by paragraph 16 (e.g. administrative services);

Species F: Represented by paragraph 17, line 3 (i.e. COM+ server providing transaction services);

Species G: Represented by paragraph 17, line 4 (i.e. the framework providing transactions services);

Species H: Represented by paragraph 18, lines 2-3 (i.e. predefined and/or dynamic protocols, rules and conventions);

Species I: Represented by paragraph 18, lines 3-4 (i.e. a security schema provided by an external provider);

Species J: Represented by paragraph 19, line 1 (i.e. central services including organizational services);

Species K: Represented by paragraph 19, lines 3-4 (i.e. requiring business objects to belong to one or more groups);

Species L: Represented by paragraph 19, lines 4-6 (i.e. compulsory naming conventions);

Species M: Represented by paragraph 20 (i.e. protocol services);
Species N: Represented by paragraph 21 (i.e. adapter services);
Species O: Represented by paragraph 22 (i.e. error handling services);
Species P: Represented by paragraph 23 (i.e. layering services);
Species Q: Represented by paragraph 24 (i.e. life-cycle services);
Species R: Represented by paragraph 25, lines 3-4 (i.e. business objects);
Species S: Represented by paragraph 25, lines 7-8 (i.e. business objects that consists of a layer of generated code);
Species T: Represented by paragraph 25, line 13 (i.e. code can be overwritten);
Species U: Represented by paragraph 25, line 14 (i.e. code is overwritten constantly);
Species V: Represented by paragraph 26, line 2-4 (i.e. encapsulation is done within a layer of generated code for a state object);
Species W: Represented by paragraph 26, lines 4-7 (i.e. generated code contains functions such as functions for storing and retrieving data);
Species X: Represented by paragraph 26, lines 7-9 (i.e. generated code contains data parameters);
Species Y: Represented by paragraph 26, lines 9-11 (i.e. generated code contains objects);
Species Z: Represented by paragraph 27, line 1 (i.e. generated code contains status flags);
Species Al: Represented by paragraph 28 (i.e. business objects that include state objects);
Species Bl: Represented by paragraph 28, lines 6-7 (i.e. container algorithm is abstracted into a separate object);
Species Cl: Represented by paragraph 29 (i.e. business objects that include stateless objects);
Species Dl: Represented by paragraph 33 (i.e. messaging services);
Species El: Represented by paragraph 34 (i.e. central services including asynchronous services);
Species F1: Represented by paragraph 35 (i.e. scheduling services);
Species G1: Represented by paragraph 36 (i.e. reporting services);
Species H1: Represented by paragraph 38 (i.e. database framework that contains procedures, user defined data types

and views for interacting with a database such as input, update, delete and query procedures);

Species I1: Represented by paragraph 39, lines 1-2 (i.e. notifying client forms and dialogs);

Species J1: Represented by paragraph 39, lines 2-4 (i.e. notifying client forms and dialogs in response to interaction with get, save, refresh and delete buttons);

Species K1: Represented by paragraph 40 (i.e. performance services);

Species L1: Represented by paragraph 41 (i.e. performance services of the client framework includes asynchronous services);

Species M1: Represented by paragraph 43 (i.e. asynchronous services);

Species N1: Represented by paragraph 44 (i.e. central services of a client framework includes rapid development services);

Species O1: Represented by paragraph 45 (i.e. external framework provides protocol services);

Species P1: Represented by paragraph 46 (i.e. abstraction services);

Species Q1: Represented by paragraph 47 (i.e. central services of an external framework includes rapid development services);

Species R1: Represented by paragraph 48 (i.e. abstraction of the business framework from one or more business objects);

Species S1: Represented by paragraph 49, lines 1-2 (i.e. tracking users of the system to determine system performance);

Species T1: Represented by paragraph 49, lines 5-6 (i.e. distributing business objects across one or more servers);

Species U1: Represented by paragraph 53 (i.e. data access tests);

2. Applicants are required under 35 U.S.C. §121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Office Action, pages 2-6.

In response to this restriction requirement, Applicants elect Species C and identify claims 1-8, 10, 130, 168, 169, 182-185, 187, 246, 294 and 295. Applicants believe that this is a correct identification of claims. If the Examiner believes that this identification of claims is incorrect,

Applicants ask that the Examiner identify the correct grouping of claims to expedite prosecution. Although Applicants are making the above election to be fully responsive to the election requirement, Applicants respectfully traverse the requirement and reserve the right to petition under 37 C.F.R. §1.144. Applicants request reconsideration and withdrawal of the species election requirement for at least the following reasons.

First, the Office Action's mere statement of conclusion is inadequate to support restriction. MPEP § 808.01 requires that “[t]he particular reasons relied on by the examiner for holding that the inventions as claimed are either independent or distinct should be concisely stated. A mere statement of conclusion is inadequate. The reasons upon which the conclusion is based should be given.” MPEP § 809.02(a) requires that the Office Action: “[p]rovide reason why the species are independent or distinct;” and “explain why the inventions are independent or distinct.” MPEP § 814 requires that the “particular limitations in the claims and the reasons why such limitations are considered to * >support restriction of< the claims to a particular disclosed species should be mentioned ** to make the requirement clear.” Indeed, MPEP § 809.02(a) provides the form language for use in the Office Action to introduce an explanation of the reasoning: “The species are independent or distinct because” Yet, such form language, the substance invited by such language, and the explanation that is ultimately required by the MPEP is lacking in the Office Action. Without further explanation, the restriction requirement is improper.

Second, the MPEP requires that the Examiner show that “[t]here would be a serious burden on the examiner if restriction is not required.” MPEP § 803. The Office Action provides **no showing of serious burden** with any evidence of the applicability to this case. Without any

evidence, the showing of serious burden is not sufficient to support restriction. Without this showing, the restriction requirement is improper.

Third, even assuming for the sake of argument that the restriction requirement were proper, which Applicants do not concede, there are generic claims that link the embodiments. MPEP §806.04(d) defines the term, generic claim:

In an application presenting three species illustrated, for example, in Figures 1, 2, and 3, respectively, a generic claim should read on each of these views; but the fact that a claim does so read is not conclusive that it is generic. It may define only an element or subcombination common to the several species.

**In general, a generic claim should *>require< no material element additional to those **>required by< the species claims, and ** each of the species >claims must require all the limitations of the generic claim<.

The Office action states that "no claims are generic." Office Action, page 6. Applicants respectfully traverse. Applicants identify at least Claims 1 and 295 as being generic claims. The Office Action identified a long list of patentably distinct species, but the only claims directed to the limitations identified by the list are dependent claims. Claim 1, for example, is an independent claim that is not directed to the limitations identified by the list. Claim 1 reads on each of the dependent species claims. Claim 1 requires no material element additional to those required by the species claims.

For at least these reasons, Applicants request that the restriction requirement be withdrawn.

SUMMARY

In light of the above remarks, reconsideration and withdrawal of the outstanding restriction requirement are respectfully requested. It is further submitted that the application is now in condition for allowance and early notice of the same is earnestly solicited. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail, as below.

Applicant believes that no fee is due for the claims in association with the filing of this Response. However, should the Commissioner deem that any fee is due, including any fees for any extensions of time, Applicant respectfully requests that the Commissioner accept this response as a Petition therefore, and directs that any fees be charged to Baker Botts L.L.P.

Deposit Account Number 02-0383, Order Number 065734.0139.

Respectfully Submitted,

BAKER BOTTS L.L.P. (023640)

By: /Bradley S. Bowling/
Bradley S. Bowling
Registration No. 52,641
One Shell Plaza
910 Louisiana Street
Houston, Texas 77002-4995
Telephone: 713-229-1802
Facsimile: 713-229-7702
EMail: brad.bowling@bakerbotts.com
ATTORNEY FOR APPLICANTS

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